REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 1 and 22-42 have been amended. No claims have been cancelled. New claims 43-47 have been added. Therefore, claims 1-47 are presented for examination.

Drawing Objections

The drawings are objected to as failing to comply with 37 CFR 1.84 (p)(5) because they include the following reference character(s) not mentioned in the description: e.g. FIG.4B, element 422, 424 and 425.

The Specification has been updated. Accordingly, Applicants request the withdrawal of the rejection of drawings.

Claims Objections

Claims 15 and 36 are objected because of the following informalities:

Claims 15 and 36 recite acronym "invokespecial instruction". "Invokespecial" should be in two words as 'invoke special'.

35 U.S.C. § 101 Rejection

Claims 22-42 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Claims 22-42 have been amended. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 22-42.

35 U.S.C. § 103 Rejection

Claims 1-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Berry, et al., U.S. Patent Publication No. 2004/0031020 ("Berry") in view of Frysinger, et

al., U.S. Patent Publication No. 2004/0060043 ("Frysinger").

Claim 1, as amended, recites:

A classfile modification method, comprising:
modifying a classfile after said classfile has been compiled from source code, said classfile describing properties of a class within an object oriented environment, said modifying comprising:
modifying a method information structure by adding byte code instructions to the byte code instructions of said method information structure's respective method, said byte code instructions to cause a plug-in module's handler method to execute an output function for said method;
adding a method information structure that includes byte code instructions for registering the identities of said class and said method with a dispatch unit that is responsible for dispatching an invocation to said plug-in module during runtime execution of said modified byte code, said invocation directed to said dispatch unit from said added byte code instructions;
compiling results of the modifying of the classfile, the results including method information; and
filtering the method information by applying filtering parameters via a filtering module, the filtering of the method information including filtering timing data, method invocations, and other method-related information.
(emphasis added).

Berry discloses a "*method and system for modifying a class file to monitor data flow are provided. The method includes selecting (401) one or more methods in the class file and adding (206, 209) one or more lines of code to report incoming arguments and return values, if any, in the selected method. The incoming arguments and return values are reported (405, 410) to an instrumentation interface which may be an instrumentation class defining methods for each type of argument in the method.* The one or more lines of code pass the incoming arguments and return values to the appropriate instrumentation class method. The method may produce a profile of data flow including a record of

incoming arguments and return values, if any, for one or more methods in a class file. The record can include data describing the types and values of arguments and return values and their distribution." (emphasis added)

The Examiner relies on Frysinger to make up for the deficiencies of Berry. (page 6, Office Action, mailed 05-13-08; emphasis added). Frysinger discloses "*monitoring code is inserted into application components that forms the software application.* The inserted instructions, for example, can cause data such as execution times, call return times, resources used, or other performance metrics to be recorded for that application component and optionally reported. Advantageously, embodiments of the invention enable features of the instrumentation to be turned OFF (i.e., deactivated) where the performance of systems executing the instrumented software is outside of predetermined operational limits." (emphasis added)

In contrast, claim 1, as amended, in pertinent part, recites "modifying a classfile after said classfile has been compiled from source code, said classfile describing properties of a class within an object oriented environment . . . compiling results of the modifying of the classfile, the results including method information" (emphasis added). The Examiner acknowledges that "Berry does not explicitly disclose modifying a class file after said class file ahs been compiled from source code", but relies on Frysinger to make up for the deficiencies of Berry. (page 6, Office Action, mailed 05-13-08; emphasis added). However, Frysinger's *monitoring code is inserted into application components that forms the software application* is **not the same as** modifying a classfile after said classfile has been compiled from source code, said classfile describing properties of a class within an object oriented environment . . . compiling results of the modifying of the classfile, the results including method information. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claim 1, as amended, in pertinent part, further discloses "<u>filtering the method</u> <u>information by applying filtering parameters via a filtering module, the filtering of the</u> <u>method information including filtering timing data, method invocations, and other</u> <u>method-related information</u>" (emphasis added). Neither <u>Berry</u> nor <u>Frysinger</u> teach or reasonably suggest a <u>filtering module to perform filtering of the method information by</u> <u>applying filtering parameters</u> as recited by claim 1. <u>Berry</u> and <u>Frysinger</u>, neither individually nor when combined, teach or reasonably suggest at least these features of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 1 and its dependent claims.

Claim 22 contain limitations similar to those of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 22 and its dependent claims.

Furthermore, according to MPEP §2143, "[T]he Supreme Court in *KSR* *International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1395-1397 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham*." And, according to MPEP §2143.01, [o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). Further, "[t]he mere fact that references <u>can</u> be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007).

<u>Berry</u> and <u>Frysinger</u>, neither individually nor when combined, teach or reasonably

suggest all the features of claim 1 and a *prima facie* case of obviousness has not been met under MPEP §2142. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 1 and 22 and their dependent claims.

New Claims

Claim 43 is a new claim that contains limitations similar to those of claim 1. Accordingly, Applicant respectfully submits claim 43 and its dependent claims are distinguished over the cited references.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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